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17

18 **UNITED STATES DISTRICT COURT**  
19 **NORTHERN DISTRICT OF CALIFORNIA**  
20 **SAN FRANCISCO DIVISION**

21 IN RE: UBER TECHNOLOGIES, INC.,  
22 PASSENGER SEXUAL ASSAULT  
23 LITIGATION

Case No. 3:23-md-03084-CRB

**DEFENDANTS UBER TECHNOLOGIES,  
INC., RASIER, LLC, AND RASIER-CA,  
LLC'S REPLY IN SUPPORT OF MOTION  
TO DISMISS CASES FOR FAILURE TO  
COMPLY WITH AMENDED PTO 10**

24  
25 This Document Relates to:

26 *A.B. v. Uber Technologies, Inc., et al.*,  
27 No. 3:25-cv-07699-CRB  
28

Date: January 16, 2026  
Time: 10:00 a.m.  
Courtroom: 6 – 17th Floor

1 *A.D. v. Uber Technologies, Inc., et al.*,  
No. 3:25-cv-07091-CRB

2 *A.E. v. Uber Technologies, Inc., et al.*,  
3 No. 3:25-cv-07668-CRB

4 *A.P. v. Uber Technologies, Inc., et al.*,  
5 No. 3:25-cv-07148-CRB

6 *C.F. v. Uber Technologies, Inc., et al.*,  
7 No. 3:25-cv-07698-CRB

8 *CLF T.M. v. Uber Technologies, Inc., et*  
9 *al.*, No. 3:25-cv-04281-CRB

10 *D.V. v. Uber Technologies, Inc., et al.*,  
11 No. 3:25-cv-07747-CRB

12 *J.K.R. v. Uber Technologies, Inc., et al.*,  
13 No. 3:25-cv-07734-CRB

14 *Jane Doe LS 618 v. Uber Technologies,*  
15 *Inc., et al.*, No. 3:25-cv-06160-CRB

16 *Jane Doe LS 619 v. Uber Technologies,*  
17 *Inc., et al.*, No. 3:25-cv-06243-CRB

18 *Jane Doe LS 620 v. Uber Technologies,*  
19 *Inc., et al.*, No. 3:25-cv-06249-CRB

20 *Jane Doe LS 621 v. Uber Technologies,*  
21 *Inc., et al.*, No. 3:25-cv-06297-CRB

22 *Jane Doe LS 622 v. Uber Technologies,*  
23 *Inc., et al.*, No. 3:25-cv-06306-CRB

24 *Jane Doe LS 625 v. Uber Technologies,*  
25 *Inc., et al.*, No. 3:25-cv-06539-CRB

26 *Jane Doe LS 626 v. Uber Technologies,*  
27 *Inc., et al.*, No. 3:25-cv-06541-CRB

28 *Jane Doe LS 627 v. Uber Technologies,*  
*Inc., et al.*, No. 3:25-cv-06547-CRB

*Jane Doe LS 628 v. Uber Technologies,*  
*Inc., et al.*, No. 3:25-cv-06552-CRB

*Jane Doe LS 630 v. Uber Technologies*  
*Inc., et al.*, No. 3:25-cv-06861

*Jane Doe LS 633 v. Uber Technologies,*  
*Inc., et al.*, No. 3:25-cv-07285-CRB

1 *Jane Doe LS 634 v. Uber Technologies,*  
2 *Inc., et al., No. 3:25-cv-07323-CRB*

3 *Jane Doe LS 639 v. Uber Technologies,*  
4 *Inc., et al., No. 3:25-cv-07616-CRB*

5 *Jane Doe LS 640 v. Uber Technologies,*  
6 *Inc., et al., No. 3:25-cv-07628-CRB*

7 *Jane Doe LS 641 v. Uber Technologies,*  
8 *Inc., et al., No. 3:25-cv-07844-CRB*

9 *Jane Doe LS 642 v. Uber Technologies,*  
10 *Inc., et al., No. 3:25-cv-07894-CRB*

11 *Jane Doe NLG (A.D.) v. Uber*  
12 *Technologies, Inc., et al., No. 3:25-cv-*  
13 *07407-CRB*

14 *Jane Doe NLG (A.H.) v. Uber*  
15 *Technologies, Inc., et al., No. 3:25-cv-*  
16 *07400-CRB*

17 *Jane Doe NLG (D.L.) v. Uber*  
18 *Technologies, Inc., et al., No. 3:25-cv-*  
19 *07478-CRB*

20 *Jane Doe NLG (J.D.) v. Uber*  
21 *Technologies, Inc., et al., No. 3:25-cv-*  
22 *07482-CRB*

23 *Jane Doe NLG (J.L.) v. Uber*  
24 *Technologies, Inc., et al., No. 3:25-cv-*  
25 *07545*

26 *Jane Doe NLG (L.F.) v. Uber*  
27 *Technologies, Inc., et al., No. 3:25-cv-*  
28 *07542-CRB*

*Jane Doe NLG (L.R.) v. Uber*  
*Technologies, Inc., et al., No. 3:25-cv-*  
*07423-CRB*

*Jane Doe NLG (N.T.) v. Uber*  
*Technologies, Inc., et al., No. 3:25-cv-*  
*07540-CRB*

*Jane Doe NLG (R.H.) v. Uber*  
*Technologies, Inc., et al., No. 3:25-cv-*  
*07403-CRB*

*Jane Doe NLG (S.M.) v. Uber*  
*Technologies, Inc., et al., No. 3:25-cv-*  
*07543-CRB*

*Jane Doe NLG (T.P.) v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07484-CRB

*Jane Doe NLG (V.M.) v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07467-CRB

*Jane Doe NLG 2 (M.P.) v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07312-CRB

*Jane Roe CL 192 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-06608-CRB

*Jane Roe CL 195 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-06735-CRB

*Jane Roe CL 198 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-06822-CRB

*Jane Roe CL 201 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-06826-CRB

*Jane Roe CL 202 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07377-CRB

*Jane Roe CL 203 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07379-CRB

*Jane Roe CL 204 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07472-CRB

*Jane Roe CL 205 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07763-CRB

*John Doe LS 15 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07862-CRB

*John Roe CL 8 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07768-CRB

*K. H. v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07700-CRB

*M.T. v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07831-CRB

*M.W. v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07753-CRB

*R.N. 02 v. Uber Technologies, Inc., et al.*, No. 3:25-cv-07097-CRB

1 *S.S. v. Uber Technologies, Inc., et al.*,  
No. 3:25-cv-07149-CRB

2 *S.W. v. Uber Technologies, Inc., et al.*,  
3 No. 3:25-cv-07695-CRB

4 *T.K. v. Uber Technologies, Inc., et al.*,  
5 No. 3:25-cv-06734-CRB

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

In its Motion to Dismiss Cases for Failure to Comply with Court Order, Defendants Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC (collectively, “Defendants” or “Uber”) established that certain Plaintiffs had failed to serve Plaintiff Fact Sheets (PFS) despite this Court’s clear directive that they do so months ago. PTO 10 at 5-6, ECF No. 348; Amended PTO 10 at 4-5, ECF No. 4274-1, ECF No. 4286. These Plaintiffs’ noncompliance with the Court’s orders impairs Uber’s ability to defend itself in this MDL, adequately investigate the claims against it under the immense time pressure of an MDL, and prepare for trial.

Nothing in Plaintiffs’ Oppositions alters this conclusion. Effective management of the Court’s docket, the public’s interest in a quick resolution, the significant prejudice to Uber from delay, and the inadequacy of lesser sanctions all weigh decisively in favor of dismissal. *See Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987). Uber’s request that the Court dismiss the Plaintiffs’ cases at issue in this motion without prejudice is entirely reasonable. Indeed, courts have repeatedly ordered cases to be dismissed *with* prejudice under similar circumstances, including in MDL proceedings where plaintiffs fail to submit complete and timely fact sheets. *See, e.g., In re Phenylpropanolamine Prods. Liab. Litig.*, 460 F.3d 1217, 1232-34 (9th Cir. 2006) (affirming dismissal with prejudice of cases for failure to submit complete PFS); *In re Bextra & Celebrex Mktg. Sales Pracs. & Prods. Liab. Litig.*, No. 05-CV-01699CRB, 2007 WL 136625, at \*2 (N.D. Cal. Jan. 12, 2007) (Breyer, J.) (dismissing with prejudice those plaintiffs’ cases who failed to file PFS and otherwise provide discovery pursuant to PTO); *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, 966 F.3d 351, 354 (5th Cir. 2020) (affirming dismissal with prejudice where plaintiff consistently failed to submit a complete PFS in spite of “numerous extensions and grace periods”); *In re Guidant Corp. Implantable Defibrillators Prods. Liab. Litig. (In re Guidant)*, 496 F.3d 863, 865-66 (8th Cir. 2007); *In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-MD-2543, 2019 WL 12048517, at \*2 (S.D.N.Y. Sept. 9, 2019) (dismissing with prejudice for failure to submit PFS).

1 In their oppositions, twelve Plaintiffs from Wagstaff<sup>1</sup>, Levin Simes<sup>2</sup>, the Nachawati Law  
 2 Group<sup>3</sup>, and Cutter Law<sup>4</sup> responded that, following Uber's motion, they belatedly submitted a PFS  
 3 and should therefore not be subject to dismissal without prejudice. ECF Nos. 4631 at 1, 4633 at 1,  
 4 4620 at 3, 4624 at 1. Uber has confirmed that these Plaintiffs have in fact belatedly submitted a PFS,  
 5 and therefore withdraws its motion as to them, although Uber reserves any potential arguments  
 6 regarding prejudice and the sufficiency of Plaintiffs' late submissions.<sup>5</sup>

7 Uber maintains that its Motion to Dismiss against the remaining 42 Plaintiffs is proper. First,  
 8 Uber seeks dismissal as to any of the Plaintiffs who failed to file an Opposition to the Motion to  
 9 Dismiss. Twelve Plaintiffs<sup>6</sup> represented by Reich & Binstock and the Clarkson Law firm have not  
 10 responded to Uber's motion (in addition to failing to submit PFS), and for that reason alone, the motion  
 11 should be granted as to them. *Spears v. Baldwin Park Unified Sch. Dist.*, No. 24-1428, 2025 WL  
 12 2028305, at \*1 (9th Cir. July 21, 2025). Second, any incarcerated Plaintiffs should not be excused  
 13 from compliance with Amended PTO 10. Two Levin Simes<sup>7</sup> Plaintiffs appear to be currently  
 14 incarcerated, and Levin Simes suggests that this should be a basis for excluding them from Uber's  
 15 Motion to Dismiss. ECF No. 4633 at 1. However, the fact that a plaintiff is incarcerated "does not  
 16 excuse plaintiff's obligations to prosecute the case and comply with the federal rules of civil  
 17 procedure." *Rodgers v. Alameda Cnty. Social Servs. Agency*, Nos. C-98-3760 VRW & C-00-4470  
 18 VRW, 2001 WL 58966, at \*1 (N.D. Cal. Jan. 12, 2001). These Plaintiffs, like any others, have chosen  
 19 to avail themselves of the justice system and must follow its rules or abide by the consequences.

20 In addition, some of the law firms launch various procedural and substantive challenges to the  
 21

22 <sup>1</sup> One Plaintiff from Wagstaff: A.P.

23 <sup>2</sup> One Plaintiff from Levin Simes: Jane Doe LS 641.

24 <sup>3</sup> Five Plaintiffs from the Nachawati Law Group: Jane Doe NLG (A.H.), Jane Doe NLG (D.L.), Jane Doe NLG (L.R.),  
 Jane Doe NLG (S.M.), and Jane Doe NLG (M.P.).

25 <sup>4</sup> Five Plaintiffs from Cutter Law: Jane Roe CL 195, Jane Roe CL 198, Jane Roe CL 203, Jane Roe CL 205, and John  
 Roe CL 8.

26 <sup>5</sup> It should be noted that Levin Simes claims that one Plaintiff, Jane Doe LS 639, will (prospectively) cure "shortly."  
 ECF No. 4633 at 1 (stating, "[w]e have also been in contact with Jane Doe LS 639, and believe that she will submit her  
 PFS shortly"). To date, Plaintiff has not submitted a PFS. Unless and until Jane Doe LS 639 cures, Uber maintains its  
 Motion to Dismiss as to her.

27 <sup>6</sup> Plaintiffs A.B., A.D., A.E., C.F., C.L.F. T.M., D.V., J.K.R., K.H., M.T., M.W., R.N. 02, and S.W..

28 <sup>7</sup> Jane Doe LS 619 and Jane Doe LS 626.

1 Motion to Dismiss, but all of these challenges are unavailing. The Wagstaff Law Firm and the  
 2 Nachawati Law Group argue that Uber’s Motion to Dismiss is procedurally improper because Uber  
 3 should have instead sought an order to show cause or met and conferred with Plaintiffs before filing  
 4 its Motion. ECF No. 4631 at 2, ECF No. 4620 at 4-5. But, as discussed below, Uber appropriately  
 5 filed a motion to dismiss as permitted by Federal Rules of Civil Procedure 37 and 41.

6 Some Plaintiffs contend that—although they have failed to submit fact sheets required by court  
 7 order—they had “good” reasons for not doing so, and this Court should not dismiss their cases so they  
 8 can continue their efforts to reach their clients. ECF Nos. 4124 at 1; 4631 at 3; 4624 at 1. However, as  
 9 recognized by the *Malone* court, this Court has an abiding interest in safeguarding the public’s interest  
 10 in expeditious resolution of the litigation and the Court’s need to manage its own docket, and thus  
 11 Plaintiffs’ noncompliance should not be countenanced. Finally, Plaintiffs assert that Uber has not been  
 12 harmed by their failings and that dismissal is too harsh of a sanction for their violation of Court orders.  
 13 ECF No. 4631 at 3; ECF No. 4620 at 5. But Uber has been harmed, as set forth herein. And Plaintiffs  
 14 have already been given warnings of their noncompliance, making dismissal an appropriate remedy.  
 15 *See, e.g., Jackson v. United States*, 116 F.3d 484, 484 (9th Cir. 1997).

16 Pursuant to the procedures set forth in Amended Pretrial Order No. 10, Uber seeks an order  
 17 dismissing the 42 Plaintiffs’ cases<sup>8</sup> without prejudice for failure to timely and substantially comply  
 18 with Amended PTO 10.<sup>9</sup>

## 19 ARGUMENT

### 20 **I. Twelve Plaintiffs have not responded to Uber’s motion and therefore should be** 21 **deemed to have consented to the relief sought.**

22 The Reich & Binstock law firm representing Plaintiffs A.B., A.D., A.E., C.F., D.V., J.K.R.,  
 23

24 <sup>8</sup> Uber seeks to dismiss the following 42 Plaintiffs’ cases without prejudice: A.B., A.D., A.E., C.F., CLF T.M., D.V.,  
 25 J.K.R., Jane Doe LS 618, Jane Doe LS 619, Jane Doe LS 626, Jane Doe LS 620, Jane Doe LS 621, Jane Doe LS 622, Jane  
 26 Doe LS 625, Jane Doe LS 627, Jane Doe LS 628, Jane Doe LS 630, Jane Doe LS 633, Jane Doe LS 634, Jane Doe LS 639,  
 Jane Doe LS 640, Jane Doe LS 642, Jane Doe NLG (A.D.), Jane Doe NLG (J.D.), Jane Doe NLG (J.L.), Jane Doe NLG  
 (L.F.), Jane Doe NLG (N.T.), Jane Doe NLG (R.H.), Jane Doe NLG (T.P.), Jane Doe NLG (V.M.), Jane Roe CL 192, Jane  
 Roe CL 201, Jane Roe CL 202, Jane Roe CL 204, John Doe LS 15, K.H., M.T., M.W., R.N. 02, S.S., S.W., and T.K..

27 <sup>9</sup> *See* Exhibit A for a chart consolidating all the Plaintiffs in the Motion to Dismiss and Uber’s proposed actions with  
 28 respect to each.



1 K.H., M.T., M.W., R.N. 02, and S.W. have failed to file an opposition to Uber’s Motion to Dismiss.  
 2 In addition, the Clarkson law firm representing Plaintiff C.L.F. T.M has not filed an opposition to  
 3 Uber’s Motion to Dismiss.

4 “Plaintiff’s failure to respond may be interpreted as nonopposition.” *George v. United States*,  
 5 901 F.Supp.2d 1179, 1188 (N.D. Cal. 2012). And unopposed motions can be granted as a sanction  
 6 under Rule 41. *Sotoodeh v. City of South El-Monte*, No. 24-3848, 2025 WL 1409493, at \*2 (9th Cir.  
 7 May 15, 2025). Even in the context of case-terminating motions to dismiss, failure to respond is  
 8 deemed to be consent to the motion being granted. *Spears*, 2025 WL 2028305, at \*1. Thus, because  
 9 Plaintiffs A.B., A.D., A.E., C.F., D.V., J.K.R., K.H., M.T., M.W., R.N. 02, S.W, and C.L.F. T.M.  
 10 compounded their failure to timely produce Plaintiff Fact Statements by failing to timely oppose  
 11 Uber’s motion to dismiss, the motion should be granted as to those twelve Plaintiffs.

## 12 **II. Uber withdraws its motion as to those Plaintiffs who have belatedly produced** 13 **Plaintiff Fact Sheets.**

14 Twelve Plaintiffs from Wagstaff<sup>10</sup>, Levin Simes<sup>11</sup>, the Nachawati Law Group<sup>12</sup>, and Cutter  
 15 Law<sup>13</sup> claim that, following Uber’s motion, they belatedly submitted a PFS and should not be subject  
 16 to dismissal with prejudice. ECF Nos. 4633 at 1 (claiming Jane Doe LS 641 produced a PFS on  
 17 10/10/25); 4620 at 3 (claiming Jane Doe NLG (A.H.), Jane Doe NLG (D.L.), Jane Doe NLG (L.R.),  
 18 Jane Doe NLG (S.M.), and Jane Doe NLG (M.P.) submitted a PFS on 12/10/25), 4624 at 1 (claiming  
 19 PFS submitted for Plaintiffs Jane Roes CL 195, 198, 203, and 205, and John Roe CL 8). These  
 20 Plaintiffs have not offered any excuse for their late submissions, nor any apology for the failure to  
 21 comply with this Court’s order, and Uber should not have to file a dispositive motion in order for  
 22 Plaintiffs to comply with their court-ordered obligations. Nonetheless, Uber withdraws its motion as  
 23 to these Plaintiffs, although it reserves and does not waive any potential arguments regarding prejudice  
 24 to Uber and the sufficiency of Plaintiffs’ late submissions. Uber reserves the right to seek an award of

25 <sup>10</sup> One Plaintiff from Wagstaff: A.P.

26 <sup>11</sup> One Plaintiff from Levin Simes: Jane Doe LS 641.

27 <sup>12</sup> Five Plaintiffs from the Nachawati Law Group: Jane Doe NLG (A.H.), Jane Doe NLG (D.L.), Jane Doe NLG (L.R.),  
 Jane Doe NLG (S.M.), and Jane Doe NLG (M.P.).

28 <sup>13</sup> Five Plaintiffs from Cutter Law: Jane Roe CL 195, Jane Roe CL 198, Jane Roe CL 203, Jane Roe CL 205, and John  
 Roe CL 8

1 sanctions, including reasonable attorneys' fees and costs, against Plaintiffs or counsel for continued  
2 disregard of this Court's orders.

### 3 **III. Uber's motion was procedurally proper.**

4 The Wagstaff Law Firm and Nachawati Law Group launch various misplaced procedural  
5 objections to Uber's Motion to Dismiss. First, the Wagstaff Law Firm argues that Uber's motion was  
6 "procedurally improper," claiming that Uber needed to seek an order to show cause to make a record  
7 in support of "the requisite showing of 'flagrant disregard.'" ECF No. 4631 at 2. This misstates the  
8 requisite showing for dismissal, which is "noncompliance... due to willfulness, fault, or bad faith."  
9 *Fjelstad v. Honda Motor Co., Inc.*, 762 F.2d 1334, 1337 (9th Cir. 1985). Although the Ninth Circuit  
10 has "specifically encouraged dismissal" in cases involving flagrant disregard of court orders, *Sigliano*  
11 *v. Mendoza*, 642 F.2d 309, 310 (9th Cir. 1981), flagrant disregard is not required. Rather,  
12 "[d]isobedient conduct not shown to be outside the litigant's control meets this standard." *Fair Hous.*  
13 *of Marin v. Combs*, 285 F.3d 899, 905 (9th Cir. 2002). Uber's motion showed that Plaintiffs have  
14 disobeyed this Court's order and Plaintiffs have not shown the disobedience to be outside their control.

15 Second, the Nachawati Law Group's Opposition argues that Uber's Motion prejudices  
16 Plaintiffs because, pursuant to L.R. 37-1, Uber should have met and conferred with Plaintiffs before  
17 filing its motion. ECF No. 4620 at 4-5. But there was nothing for Uber and the Plaintiffs to meet and  
18 confer about – parties lack the power to agree among themselves to disregard deadlines set forth in a  
19 court order. *In re Toy Asbestos*, No. 19-cv-00325-HSG, 2021 WL 1056552, at \*3 (N.D. Cal. Mar. 19,  
20 2021) ("The parties are not free to disregard Court orders, whether they agree among themselves or  
21 not"); *Brown v. Wescott*, No. C13-369 MJP, 2013 WL 6670252, at \*4 (W.D. Wash. Dec. 18, 2013)  
22 ("The Parties do not have the power to alter Court orders setting deadlines by entering into side  
23 agreements"). Even if the parties could agree to disregard the Court's orders, Nachawati Law Group  
24 admits that it lost contact with its clients, and therefore would not have the authority to enter into any  
25 agreements with Uber. The meet and confer requirement can be excused where, as here, meeting and  
26 conferring would be futile. *Tapgerine, LLC v. 50Mango, Inc.*, No. C 16-06504, 2017 WL 1956874, at  
27 \*3 (N.D. Cal. May 11, 2017). And regardless, Uber and the Nachawati Law Group have repeatedly  
28

discussed the Plaintiffs' PFS deficiencies, including most recently by serving these Plaintiffs with a "Notice of Overdue Discovery" identifying the Plaintiff's Amended PTO 10 violation(s) and stating that if Plaintiff does not comply their case may be subject to dismissal. In other words, the parties' positions are known to one another and further conferrals would not be constructive or required.

**IV. Plaintiffs' Failure to Comply with this Court's PFS Deadline Cannot Be Excused and Mandates Dismissal Under the First and Second *Malone* Factors.**

Several of the Plaintiffs argue that, although they have failed to submit fact sheets, they have good reasons for not doing so, and this Court should not dismiss their cases so Plaintiffs' counsel can continue their efforts to reach their clients. ECF Nos. 4624 at 1; 4631 at 3; 4624 at 1. Specifically, Cutter Law argues that "a Plaintiff may become unavailable for a variety of reasons. Counsel has utilized extensive efforts to reach each of the clients, predating the filing of Defendant's motion." ECF No. 4624 at 1. The Wagstaff Law Firm points out that "the process of producing a PFS is a multifaceted task that requires a survivor to confront their traumatizing experience head-on" and that Counsel will continue its efforts with the Plaintiffs to cure their deficiencies. ECF No. 4631 at 3. Finally, Levin Simes argues that "[t]here are many reasons why these victims of sexual assault could be unresponsive after having their case stayed for many years," and therefore requests an unspecified amount of additional time to follow up with these Plaintiffs. ECF No. 4633 at 1.

This meager attempt to explain away Plaintiffs' noncompliance is unavailing. At bottom, the Court still has an abiding interest in safeguarding the public's interest in expeditious resolution of the litigation and the Court's need to manage its own docket, as recognized by the first two factors outlined by the Court in *Malone*. *Malone*, 833 F.2d at 130. These law firms are essentially arguing that the first two factors under *Malone* should be ignored because "there are many reasons" why a Plaintiff may become unavailable, and thus make compliance with a Court order impossible. ECF No. 4633 at 1.

Whether couched in the language of the *Malone* factors or not, Plaintiffs cannot ignore this Court's obligation to zealously manage its own docket and protect the public's interest in expeditious resolution of the litigation. While there might be various challenges confronting Plaintiffs who have allegedly suffered all types of harms, courts have recognized that difficulty in locating clients or the difficult nature of the injuries at issue are not adequate excuses for the failure to comply with a court

1 order. *In re Phenylpropanolamine Prods. Liab. Litig.*, 460 F.3d 1217, 1233 (9th Cir. 2006); *see also*  
 2 *Richards v. Centripetal Networks, Inc.*, No. 23-cv-00145-HSG, 2024 WL 3834386, at \*2 (N.D. Cal.  
 3 Aug. 15, 2024) (“Defendants’ travel schedule is no excuse for failure... to comply with the court’s  
 4 discovery orders.”). By choosing to file their lawsuits, Plaintiffs have agreed to take on the burdens of  
 5 compliance with court orders, which by their nature may be personally challenging but regardless,  
 6 “compliance is not optional.” *Capolupo v. Ellis*, No. 18-cv-07458-RMI, 2019 WL 2327883, at \*7  
 7 (N.D. Cal. May 31, 2019).

8 **V. Plaintiffs’ Failure to Comply with the Court’s Order Overrides the Public Policy**  
 9 **Favoring Disposition on the Merits, and No Less Drastic Sanction is Available.**

10 Although disposition on the merits is generally preferred, in cases like this one, a “Plaintiff’s  
 11 inaction outweighs merit-based preference.” *Torres v. General Motors LLC*, No. 24-cv-02474-BEN-  
 12 JLB, 2025 WL 1435524, at \*2 (S.D. Cal. May 16, 2025); *see also Collins v. Laborers Int’l Union of*  
 13 *N. Am.*, No. 24-3937, 2025 WL 1895310, at \*2 (9th Cir. July 9, 2025) (“the district court did not abuse  
 14 its discretion in determining the factors supporting dismissal outweighed the public policy favoring  
 15 disposition on the merits”).

16 And, dismissal is not too drastic a sanction in this case. This Court has already recognized that  
 17 “Plaintiffs’ failure to provide substantially complete and verified fact sheets has caused prejudice to  
 18 Uber” and that dismissal without prejudice is an appropriate remedy. ECF No. 3922. And, other courts  
 19 in this Circuit have recognized that dismissal is an appropriate remedy where a party has previously  
 20 been warned about its non-compliance with a court order and still failed to comply. *Jackson*, 116 F.3d  
 21 at 484; *Degrelle v. Simon Wiesenthal Center*, 883 F.2d 1023 (9th Cir. 1989); *Hilton v. Pagani*  
 22 *Worldwide LLC*, No. 19-cv-01848-VC, 2020 WL 2528935, at \*4 (N.D. Cal. April 16, 2020). Indeed,  
 23 Uber is not even requesting dismissal with prejudice of Plaintiffs’ cases despite their long-term non-  
 24 compliance with this Court’s order and previous warnings, but rather seeks only dismissal without  
 25 prejudice. This is, in fact, a less drastic sanction than is certainly warranted by existing law. What  
 26 Plaintiffs want is open-ended permission to ignore the Court’s order to submit a PFS, which would be  
 27 contrary to law and highly prejudicial to Uber. There is no situation in which an unsubstantiated claim  
 28 should persist in this litigation, particularly given the fact that many other Plaintiffs are fully able to

1 submit the required information.

2 **VI. Conclusion.**

3 Plaintiffs' continued failure to comply with court orders and rules persists beyond reasonable  
 4 delay and veers head into intentional avoidance of Court-mandated deadlines in pursuit of allegations  
 5 that seemingly have no plaintiff attached to them. None of the Plaintiffs' Opposition motions change  
 6 the basic facts here: despite many months in which to do so, Plaintiffs have still not complied with the  
 7 Court's Order to submit a complete and verified Plaintiff Fact Sheet. Their excuses for failing to do  
 8 so are insufficient and Uber has been prejudiced in its ability to defend its case. This Court should take  
 9 the same approach as other MDL courts and dismiss these Plaintiffs'<sup>14</sup> claims without prejudice.

10  
 11 Dated: December 17, 2025

SHOOK, HARDY & BACON L.L.P.

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 13 By: /s/ Michael B. Shortnacy

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UBER TECHNOLOGIES, INC.,

20 RASIER, LLC, and RASIER-CA, LLC

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 24  
 25 <sup>14</sup> Uber seeks to dismiss the following 42 Plaintiffs' cases without prejudice: A.B., A.D., A.E., C.F., CLF T.M., D.V.,  
 26 J.K.R., Jane Doe LS 618, Jane Doe LS 619, Jane Doe LS 626, Jane Doe LS 620, Jane Doe LS 621, Jane Doe LS 622, Jane  
 27 Doe LS 625, Jane Doe LS 627, Jane Doe LS 628, Jane Doe LS 630, Jane Doe LS 633, Jane Doe LS 634, Jane Doe LS 639,  
 28 Jane Doe LS 640, Jane Doe LS 642, Jane Doe NLG (A.D.), Jane Doe NLG (J.D.), Jane Doe NLG (J.L.), Jane Doe NLG  
 (L.F.), Jane Doe NLG (N.T.), Jane Doe NLG (R.H.), Jane Doe NLG (T.P.), Jane Doe NLG (V.M.), Jane Roe CL 192, Jane  
 Roe CL 201, Jane Roe CL 202, Jane Roe CL 204, John Doe LS 15, K.H., M.T., M.W., R.N. 02, S.S., S.W., and T.K.